IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

Crl.MC.No. 836 of 2007()

CP.79/2006 of JUDL.MAGISTRATE OF FIRST CLASS, PARAVUR
CRIME NO.113/04 OF VARAPUZHA POLICE STATION.

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PETITIONER: ACCUSED NO.2

SHIJU, S/O XAVIER, VALIYAPARAMBIL,
MUTTINAL KARA, VARAPUZHA, ERNAKULAM DIST.

BY ADV. SRI.ALEXANDER GEORGE
SRI.DILIP MOHAN

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA REPRESENTED BY ITS
DIRECTOR OF PUBLIC PROSECUTION,
HIGH COURT OF KERALA, ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
VARAPPUZHA POLICE STATION,
ERNAKULAM DISTRICT.

BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 836 of 2007

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Dated this the 22nd day of March, 2007

O R D E R

The petitioner is one of the accused in a prosecution, inter alia, under Sections 452 and 308 r/w. 34 I.P.C. Final report has been filed. Cognizance has been taken. Committal proceedings have been registered against the petitioner. As the petitioner was not available before the learned Magistrate, coercive processes have been issued and steps under S.82 and 83 have been taken against him. The petitioner is willing to appear before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate in accordance with law and he may be remanded to custody. It is in these circumstances prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate

would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself, unless there are compelling reasons.

(R. BASANT)
Judge

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